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Memorandum

To: Town Meeting Members
From: Belmont Planning Board
Date: April 3, 2014

RE: Planning Board Report to the 2014 Annual Town Meeting

Pursuant to the requirements of Massachusetts General Laws, Chapter 40A, Section 5, the Planning Board hereby provides the following recommendations on the zoning amendments that will appear before the 2014 Annual Town Meeting. Sitting for the Board were Michael Battista, Chair, Elizabeth Allison, Sami Baghdady, Charles Clark, Joseph DeStefano, and Karl Haglund, associate member. The Board held duly posted public hearings in the Board of Selectmen's Meeting Room in Town Hall and deliberated and voted on each of the zoning amendments. Many of these amendments require amending more than one section of the Zoning By-Laws. A brief overview of the zoning amendments, the reasons for them and the Board's recommendations to the Town Meeting are provided below.

Article 9 - Allow Kennels by Special Permit in Certain Districts
(Session A – May 5, 2014)

In 2012, the State legislature significantly overhauled the municipal animal control laws, including new definitions and licensing requirements for kennels. The Town Clerk and the Board of Health began to revise the General By-Laws to reflect these changes. During review of these proposed changes, Town Counsel advised that the Planning Board should look at the Zoning By-Law as well.

Currently, the Zoning By-Law does not regulate kennels. The proposed amendment would allow doggie day care (day time services only, no overnight boarding) in the Local Business II, Local Business III and General Business Zoning Districts by Special Permit. The amendment would also allow overnight boarding in the General Business Zoning District by Special Permit as well. Personal kennels (more than 4 dogs), as an accessory use, would be allowed by Special Permit in the Single Residence A, B, C, and D Zoning Districts.

The Board held a public hearing on March 4, 2014. During the public hearing, several members from the audience expressed concern about allowing doggie day care within the Local Business II Zoning District.

At the conclusion of the public hearing, the Board deliberated on the zoning amendment and voted unanimously **to recommend favorable action by Town Meeting to allow kennels by Special Permit in certain commercial districts.**

Article 10 – Change Home Occupation Certificate Expiration

(Session A – May 5, 2014)

A home business is required to get a Home Occupation Certificate (HOC) from the Office of Community Development and a Business Certificate (BC) from the Town Clerk's Office. The problem – HOCs are renewed every 3 years while BCs are renewed every 4 years. This creates confusion for those residents that have home occupations.

The BCs renewal time line is based on State Law, which can only be changed by the State Legislature. On the other hand, the HOCs renewal time line is contained within the Town's Zoning By-Law, which can be amended by Town Meeting. The Town Clerk requested that the Home Occupation Zoning By-Law be amended to require renewal every 4 years so that the renewal time for the HOCs and the BCs are the same.

The Board held a public hearing on February 25, 2014. No questions, comments, or concerns were raised during the hearing regarding this amendment.

At the conclusion of the public hearing, the Board deliberated on the zoning amendment and voted unanimously **to recommend favorable action by Town Meeting to change the renewal time of Home Occupation Certificates to 4 years.**

Article 11 – Allow Shared Driveways by Special Permit in Residential Districts

(Session A – May 5, 2014)

Several years ago, the Director of Community Development queried Town Counsel about the legality of shared driveways in residential districts. According to her review, shared driveways are an accessory use; however, they are not related to the principal use of the lot and are therefore not allowed unless expressly permitted in the Town's Zoning By-Law. Shared driveways in residential districts as an accessory use are not currently listed within the Town's Zoning By-Law and therefore are not allowed in Belmont. The Director of Community Development requested this zoning amendment.

The proposed amendment seeks to allow shared driveways in residential districts only by Special Permit from the Planning Board. The By-Law contains certain objectives that have to be met, such as preservation of stone walls and significant trees and minimizing impacts on traffic and

pedestrians. The property owners would also be required to file an easement with the Registry of Deeds and to provide a mutually acceptable maintenance agreement.

The Board held a public hearing on March 4, 2014. The only question raised during the hearing regarded the status of existing shared driveways. The Board responded that existing shared driveways would be considered grandfathered and not subject to this new zoning provision.

At the conclusion of the public hearing, the Board deliberated on the zoning amendment and voted unanimously **to recommend favorable action by Town Meeting to allow shared driveways by Special Permit in residential districts.**

Article 12 – Create a Medical Marijuana Overlay District (Session B – June 7, 2014)

In November 2012, Massachusetts voters approved a ballot question that allows a qualifying patient to obtain and possess marijuana for medical use. The law limits the number of dispensaries to 5 within each county. The Department of Public Health (DPH) was required to develop regulations for patient and caregiver registration, operation of dispensaries, and other aspects of the law. As a result, the 2013 Town Meeting adopted a moratorium to allow DPH time to draft these regulations. The DPH regulations became effective on May 8, 2013 and the Town's moratorium expires on June 30, 2014. Currently DPH has issued 4 licenses for Middlesex County; none within Belmont.

The proposed zoning amendment would create an overlay zoning district for the Local Business II, General Business, and Uplands Zoning Districts and allow dispensaries by Special Permit from the Planning Board provided they are at least 300' from certain protected uses, i.e., houses, schools, day care centers, playgrounds, parks, the library, and the swimming pool. The By-Law establishes specific criteria that have to be met: the dispensary provides reasonable access to patients, it is designed to be compatible with the surrounding neighborhood, it is safe and secure, and it generates minimal traffic. Conditions are also required to be attached to the Special Permit, such as limiting the hours of operation, requiring renewal of the Special Permit, designating a contact person, and reporting annually on the status of the business.

The Board held a public hearing on March 7, 2014. No questions, comments, or concerns were raised during the hearing regarding this amendment. The Belmont Police Department submitted written comments for the Board's consideration. These included requiring the dispensary distribution area to be visible from the exterior of the premises, requiring that all loading and unloading occur within the building, and requiring rubbish to be stored indoors as well. The Board agreed with these comments and incorporated them into the zoning amendment.

At the conclusion of the public hearing, the Board deliberated on the zoning amendment and voted unanimously **to recommend favorable action by Town Meeting to create a Medical Marijuana Overlay District.**

Article 13 – Require ‘As-Built’ Plan Submission and Approval

(Session B – June 7, 2014)

With the amount of new construction occurring within the Waverley Square area, many residents questioned whether these structures comply with the current zoning requirements. Requiring submission and approval of an ‘As-Built’ plan prior to the issuance of a Certificate of Occupancy will insure that these new structures comply with the Zoning By-Laws.

The Board held a public hearing on March 4, 2014. No questions, comments, or concerns were raised during the hearing regarding this amendment.

At the conclusion of the public hearing, the Board deliberated on the zoning amendment and voted unanimously **to recommend favorable action by Town Meeting to require submission and approval of an ‘As-Built’ plan prior to the issuance of a Certificate of Occupancy.**

Article 14 – Address Citizens’ Petition for 2013 Special Town Meeting

(Session B – June 7, 2014)

Last year a Citizens Petitioned moratorium on the demolition of single family homes and replacing them with two-family homes within the General Residence Zoning Districts was adopted by Town Meeting. This petition was the result of the Citizens concerns about the construction of significantly larger homes without regard for the surrounding built environment. This moratorium expires on June 30, 2014. Last August, the Board began discussing the issues surrounding this new construction and discovered the following issues: loss of open space, buildings set further back from the street than abutting houses, increased lot coverage, types of units, scale, mass and placement of these developments on small lots (“box car”), units with no front doors, siting mechanical equipment in front yards and close to abutting homes, asphalt and parking in place of landscape elements, grading, and treatment of non-conforming properties – lots that are too small for intense development.

As a result, the Board drafted a zoning amendment with 6 parts: definitions, grandfathering, use, dimensional, existing lots, and Site Plan Review/Special Permit. These new regulations are meant to insure that any new structure blends with the built environment. The vast majority of them apply to the General Residence Zoning Districts, but several apply to the Town as a whole.

The amendment eliminates exceptions for nonconforming lots and exemptions for lots less than 7,000 square feet and 70’ frontage and replaces them with a Special Permit process. Single and two-family dwellings will require Design and Site Plan Review and two-family dwellings will require a Special Permit from the Planning Board. By instituting a lot area per dwelling unit requirement of 3,500 square feet, the By-Law will now explicitly state that a two-family home requires 7,000 square feet of lot area and 70’ of frontage. The By-Law reduces the lot size and frontage requirements to 5,000 square feet and 50’ in order to incentivize construction of single-family homes. In certain circumstances, the Planning Board can modify lot area per dwelling unit and lot frontage requirements for a two-family by Special Permit but no less than 5,000

square feet lot size and 50' frontage. The front setback of the new structure will be limited to the average setbacks on either side of the new building and the rear setback will be limited to 20% of the lot depth

In order to insure that new construction is compatible with the surrounding built environment, a Site Plan Review and Special Permit By-Law was drafted - single-family homes require Site Plan Review; two-family homes require Site Plan Review and Special Permit. This provision contains a sunset clause (June 30, 2018) in order to give the Board time to reflect on the impacts that these changes have on the Town. The Planning Board is the Special Permit Granting Authority. The By-Law contains performance standards that the Board will use when reviewing an application - scale and design of the building, its height, proportions, the siting of the building and driveway, circulation, lighting, open space and landscape area, relation of the structures and spaces, screening, drainage, and street trees.

Two provisions will apply to the entire Town - installation of HVAC and other mechanical equipment will be prohibited in front yards (the area between a line obtained by extending the front elevation of the dwelling to each of the sidelines of the lot and the front line of the lot) and side and rear setbacks and will require appropriate screening.

The Board held a series of public hearings beginning on February 25, 2014 and continued to March 4 and 7. The Citizen sponsors participated in the hearings and supported the proposed amendments. Only one person objected to these amendments asking that his property be exempt from them since he has owned his property for a long time.

At the conclusion of the public hearing, the Board deliberated on the zoning amendment and voted unanimously **to recommend favorable action by Town Meeting on a package of amendments to address the Citizens Petitioned Demolition Moratorium.**

If you have any questions regarding these zoning amendments, please do not hesitate to contact Jeffrey Wheeler, AICP, Planning Coordinator, at 617-993-2666 or at jwheeler@belmont-ma.gov.

Thank you.